

FEBRUARY 24, 2006

MEMORANDUM FOR PROCLTR DISTRIBUTION LIST

SUBJECT: Source Approval Process – Prevention of Aged Backorders (Defense Logistics Acquisition Directive (DLAD) 11.302-90(c)(i), 12.301(f)(103), 17.7501(b)(4)(ii), 52.211-9014, 52.217-9002)

Issuance of this PROCLTR is one of multiple efforts DLA is undertaking to help prevent the occurrence of backorders. This PROCLTR is intended to emphasize consideration of customer need date and Attainment to Plan in a manner consistent with existing DLA source approval policy.

DLA policy addressing alternate offers is reflected in DLAD Section 17.7501 and the provision at DLAD 52.217-9002, Conditions for Evaluation and Acceptance of Offers for Part Numbered Items. This policy provides substantial discretion to the Agency when determining whether to evaluate alternate offers prior to award. If the time before proposed award does not permit evaluation and delay of award would adversely affect the Government, then alternate offers may be considered technically unacceptable for the current acquisition and award made to an otherwise acceptable offeror. Such alternate offers are then evaluated for technical acceptability for future procurements of the same item, subject to the stipulations in the provision. The policy also provides that for automated solicitations, except those that will result in indefinite delivery purchase orders, offers of alternate product are not considered for the current procurement, and offerors are instructed to provide evaluation requests to the office specified for each Defense Supply Center.

This PROCLTR adds clarifying policy advising DLA personnel that offers of alternate product will not be evaluated for the instant procurement when acquiring Priority 1 items; items on backorder; or Not Mission Capable items. Additionally, offers of alternate product shall not be evaluated for the instant procurement unless the contracting officer has coordinated with the Supply Planner and the Product Specialist and determined that delay of award is unlikely to result in backorders. This determination must be based on the Agency supply position, the lead time required for a technical evaluation at the Engineering Support Activity, and the risk of additional lead time that may potentially be required for a first article test.

This PROCLTR also makes other updates to DLAD text and the provision at 52.217-9002, as follows:

1. Language is added at DLAD 11.302-90(c)(i), Note 2, and in the provision to clarify Government and supplier responsibilities regarding traceability documentation. A new DLAD 52.211-9014 clause requires contractors to retain traceability documentation when award for “exact product” is made to a dealer/distributor for a non-critical or critical application item, and traceability documentation was not obtained prior to award.

2. Subparagraph (g) of the provision is updated to reflect an increase from \$1,200.00 to \$1,500.00 in the fee for an Engineering Support Activity to evaluate an alternate offer. New language is also added to advise that when an alternate offer will not be considered for the current procurement, the contracting officer shall request that the offeror, at its discretion, provide a sample product for testing and evaluation in addition to the data required in the provision. Although not mandatory, the provision encourages offerors to provide the sample. This will facilitate the post-award evaluation and, if the alternate product is approved, increase the likelihood of its being added to the acquisition identification description in time for the next acquisition of the item. This will contribute to reduced lead time for DLA by decreasing the instances when alternate offers are conditionally approved based upon successful completion of a first article test after award.

This PROCLTR is effective 15 days from the date of issue and expires upon incorporation of the attached guidance into the DLAD. The point of contact for this PROCLTR is Ms. Anne Burleigh, J-3311, (703) 767-1358, DSN 427-1358, or e-mail anne.burleigh@dla.mil.

CLAUDIA S. KNOTT
Component Acquisition Executive

Attachment

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PART 11

DESCRIBING AGENCY NEEDS

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SUBPART 11.3 - ACCEPTABLE MATERIAL

* * * * *

11.302-90 Use of approved sources.

(a)-(b) * * *

(c) Pre-award approval/review requirements.

(i) * * *

Note 1 * * *

Note 2 Contracting officers **must either** obtain traceability documentation prior to award, or **must** require suppliers **in accordance with DLAD 52.211-9014** to retain documentation and provide it for review at time of Government source inspection, if applicable (see 11.302-91(a)(11)) or during random or directed post-award audits.

Note 3 - Note 6 * * *

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11.304-92 Solicitation clause for retention of traceability documentation.

Insert the clause at 52.211-9014, Contractor Retention of Traceability Documentation, in solicitations and contracts for non-critical or critical application items.

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PART 12

ACQUISITION OF COMMERCIAL ITEMS

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SUBPART 12.3 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES FOR THE ACQUISITION OF COMMERCIAL ITEMS

12.301 Solicitation provision for acquisition(s) of commercial items.

(b)(2)(90) * * *

(e) * * *

(f) DLA SPE has approved supplementation of the provisions and clauses in FAR Part 12 to require use of the following provisions and clauses, when applicable:

(90)-(102) * * *

(103) the clause at 52.211-9014, Contractor Retention of Traceability Documentation, as prescribed in 11.304-92.

(b)(3)(90) * * *

12.302 Tailoring of provisions and clauses for the acquisition of commercial items.

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PART 17

SPECIAL CONTRACTING METHODS

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SUBPART 17.75 - ACQUISITION OF REPLENISHMENT PARTS

17.7501 Procurement of parts.

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(b)(3) Solicitation Provision.

(i)-(iv) * * *

(v) *The Contracting Officer, at his or her sole discretion, determines the acceptability and sufficiency of documentation or other evidence furnished by offerors in accordance with 52.217-9002. At a minimum, evidence must be sufficient to establish the identity of the product and its manufacturing source. Traceability documentation might consist of a combination of documents, including but not limited to (A) a copy of the offeror's request for quotation to the approved source in the AID and an original, hard copy of the quotation received by the offeror from the approved source cited in the AID, or other verifiable documentation of quotation; (B) a copy of an invoice on the approved source's letterhead (invoice must identify exact item cited in AID and quantity sufficient to satisfy the solicitation requirement); or (C) a copy of the packing slip that accompanied shipment from the approved source to the offeror (packing slip must identify exact item cited in AID and quantity sufficient to satisfy the solicitation requirement). For additional documentation requirements that apply to manufacturers other than the approved source cited in the AID, or dealers offering an item produced by a manufacturer other than the approved source cited in the AID, see 17.7501(b)(3)(vi).*

(vi) * * *

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(b)(4) Evaluation of alternate item offers for spare parts. When the "Conditions for Evaluation and Acceptance of Offers for Part Numbered Items" provision is used, *DSCs shall follow the policy in this Section 17.7501 in its entirety when considering alternate offers and when deciding whether to evaluate alternate offers prior to award.* When the provision is not used, all alternate offers will be evaluated, unless the solicitation has provided information that only the item cited in the acquisition identification description (AID) will be acceptable (e.g., restricted source or source controlled items, NIOSH items for which necessary testing equipment is not reasonably available, etc.) The level of technical data that the Government has available for use to evaluate the acceptability of an alternate product offered, and the corresponding level of technical data that must be furnished with an offer of alternate product, will be identified either in the AID or in paragraph (c)(2) of the provision at 52.217-9002. If the level of data and submission requirements are not identified in either of these locations in the solicitation, then 52.217-9002(c)(3)(a) applies. DSC procedures shall also provide for prompt notification by the contracting officer to alternate offerors of interim status (when required) and final status of the alternate offer, i.e., approved, disapproved, returned without evaluation. Several other factors should be considered in making a decision to evaluate items prior to award.

(i) Reserved.

(ii) For any purchase, if the time before proposed award does not permit evaluation, and delay of award would adversely affect the Government, then alternate offers may be considered technically unacceptable for the current acquisition and award made to the otherwise acceptable offeror. The benefits which may accrue to the Government, if the alternate item were accepted, must be weighed against any adverse effects caused by delaying award. Consideration shall be given to requesting expedited evaluation if the benefits are significant. For automated procurements, offers of alternate product (which includes offers of previously reverse-engineered product) will not be evaluated for the instant procurement, but will be evaluated for potential use on future procurements. The clause may still be included in the solicitation for purposes of informing vendors about necessary submissions for evaluation under current or future procurements. *Offers of alternate product will not be evaluated for the instant procurement when acquiring Priority 1 items (IPG 1-3), items on backorder, or Not Mission Capable (NMC) items. Additionally, offers of alternate product shall not be evaluated for the instant procurement unless the contracting officer has coordinated with the Supply Planner and the Product Specialist and determined that delay of award is unlikely to result in backorders. This determination must be based on the Agency supply position, the lead time required for a technical evaluation at the cognizant Engineering Support Activity(ies), and the risk of additional lead time that may potentially be required for a first article test. When an alternate offer will not be considered for the current procurement, the contracting officer shall request that the offeror, at its discretion, provide a sample product for testing and evaluation in addition to the data required in the provision at 52.217-9002. Although not mandatory, the provision at 52.217-9002 encourages*

offerors to provide the sample. This will facilitate the post-award evaluation and, if the alternate product is approved, increase the likelihood of its being added to the acquisition identification description in time for the next acquisition of the item. This will contribute to reduced lead time for DLA by decreasing the instances when alternate offers are conditionally approved based upon successful completion of a first article test after award.

(iii)-(vii) * * *

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PART 52

SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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52.211-9013 Shipper's Declaration of Dangerous Goods
52.211-9014 **Contractor Retention of Traceability Documentation**
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52.211-9014 **Contractor Retention of Traceability Documentation.**

As prescribed in 11.302-92, insert the following clause:

CONTRACTOR RETENTION OF TRACEABILITY DOCUMENTATION ([month PROCLTR issued] 2006) - DLAD

(a) This clause applies when award is made to a dealer/distributor (non-manufacturer) for "exact product," as defined in DLAD 52.217-9002, and when traceability documentation was not obtained prior to award.

(b) The Contractor must retain evidence of the technical acceptability of supplies furnished under this contract. Evidence will generally include information tracing the supplies back to the original equipment manufacturer or its authorized distributor. At a minimum, evidence must be sufficient to establish the identity of the product and its manufacturing source. This documentation must be retained for 3 years after final payment under this contract and provided for review (1) at time of Government source inspection, if applicable; (2) during random or directed post-award audits; or (3) to the Contracting Officer upon request.

(c) The Contracting Officer determines the acceptability and sufficiency of documentation or other evidence, at his or her sole discretion. If the Contracting Officer finds the evidence to be unacceptable, or if the Contractor fails to retain or provide the requested evidence, the award may be cancelled.

(End of clause)

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52.217-9002 Conditions for Evaluation and Acceptance of Offers for Part Numbered Items.

As prescribed in 17.7501(b)(3), insert the following provision:

CONDITIONS FOR EVALUATION AND ACCEPTANCE OF OFFERS FOR PART NUMBERED ITEMS ([month PROCLTR issued] 2006) - DLAD

(a) * * *

(b) "Exact product."

(1) "Exact product" means a product described by the name of an approved source and its corresponding part number, as currently cited in the AID; modified (if necessary) to conform to any additional requirements set forth in the AID; and manufactured by, or under the direction of, that approved source. If an Offeror indicates that an "exact product" is being offered, the Offeror must meet one of the descriptions in subparagraphs (i)-(iv) below. (Any Offeror not meeting one of these descriptions is not considered to be offering "exact product;" even though the item may be manufactured in accordance with the drawings and/or specifications of an approved source currently cited in the AID.) **For any Offeror other than the manufacturer cited**

in the AID, the Contracting Officer may request evidence to demonstrate technical acceptability of the supplies offered. Evidence requested will generally include information tracing the supplies back to the original equipment manufacturer or its authorized distributor. At a minimum, evidence must be sufficient to establish the identity of the product and its manufacturing source. The Contracting Officer determines the acceptability and sufficiency of documentation or other evidence, at his or her sole discretion. If an Offeror fails to provide the requested evidence/information or provides information that the Contracting Officer finds unacceptable, its offer may be rejected without further consideration under this solicitation.

(i)-(ii)

(iii) A manufacturer who (A) produces the offered item under the direction of an approved source currently cited in the AID; and (B) has authorization from that approved source to manufacture the item, identify it as that approved source's name and part number, and sell the item directly to the Government. If requested by the Contracting Officer, the Offeror must provide documentation to demonstrate such authorization, **or other evidence of technical acceptability such as information that traces the supplies back to the original equipment manufacturer. Such evidence could be documentation obtained directly from the approved source or identification on a Web site maintained by the approved source confirming that the manufacturer is an acceptable source for the item identified by that approved source's name and part number. If evidence cannot be obtained directly from the approved source, this does not necessarily preclude acceptance of the offer, if the Offeror provides adequate documentation or other evidence allowing the Contracting Officer to determine the approved source has oversight of and involvement in the manufacturing process.**

(iv) A dealer/distributor offering the product of a manufacturer that meets the description in subparagraph (iii) above. If requested by the Contracting Officer, the Offeror/Contractor must provide documentation that demonstrates such authorization **or other evidence of technical acceptability such as information that traces the supplies back to the original equipment manufacturer or its authorized distributor. Such evidence could be documentation obtained directly from the approved source or identification on a Web site maintained by the approved source confirming that the item being offered is produced by a manufacturer that is an acceptable source for the item identified by that approved source's name and part number. If evidence cannot be obtained directly from the approved source or manufacturing source, this does not necessarily preclude acceptance of the offer, if the contracting officer can adequately document that the approved source has oversight of and involvement in the manufacturing process by other means.**

(c)-(f) * * *

(g) Failure to furnish adequate data and/or information as prescribed in subparagraph (b), (c), (d) or (e) of this provision (when required for the current procurement) within 10 business days or less, or as otherwise required by the Contracting Officer or elsewhere in this solicitation, may preclude consideration of the offer. For automated procurements, it is the responsibility of the Offeror when offering a "superceding part number" or a "previously-approved part number" to ensure that supporting documentation arrives at the contracting activity within 2 business days after the data is requested, or the offer may not be considered. The Agency will make every effort to determine, prior to award, the acceptability of the products offered which meet the dollar savings threshold shown below, and/or which have a reasonable chance to receive an **award. Generally**, the Agency will not evaluate alternate offers not meeting the dollar threshold. The savings potential is based on the cost of evaluation (\$200.00 if only a local technical evaluation is involved, plus an additional \$1,500.00 for each required Engineering Support Activity evaluation). **If the time before proposed award does not permit evaluation and delay of award would adversely affect the Government**, alternate offers will not be considered for the current procurement. Instead, they will be evaluated for technical acceptability for future procurements of the same item, if adequate data is **submitted**, as stipulated above. **When an alternate offer will not be considered for the current procurement, the Contracting Officer will request that the Offeror, at its discretion, provide a sample product for testing and evaluation in addition to the data required in this provision. Although not mandatory, Offerors are encouraged to provide the sample. This will facilitate the post-award evaluation and, if the alternate product is approved, increase the likelihood of its being added to the acquisition identification description in time for the next acquisition of the item. Unless otherwise specified in the solicitation, samples shall be submitted at no expense to the Government, may be damaged or destroyed during testing, and consequently may not be returned to the offeror; samples that are not damaged or destroyed will be returned only at the Offeror's request and expense.** For alternate offers not evaluated, the Offeror's complete technical data package will be returned.

(h) * * *

(i) It is the Government that determines if the documentation or other evidence furnished by an Offeror is adequate to satisfy the requirements in this provision. ***The Contracting Officer may at any time, pre-award or post-award, request evidence of the technical acceptability of the supplies offered in response to this solicitation. At a minimum, evidence must be sufficient to establish the identity of the product and its manufacturing source. The Contracting Officer determines the acceptability and sufficiency of documentation or other evidence, at his or her sole discretion. If the Contracting Officer requests evidence from a Contractor who received an award resulting from this solicitation and the Contracting Officer subsequently finds the evidence to be unacceptable, or if the Contractor fails to provide the requested evidence, the award may be cancelled.***

(End of provision)